

ASSESSMENT OF PUBLIC COMMENT

DEPARTMENT OF TAXATION AND FINANCE

The rule amends Subparts 188-2 and 188-4 of Title 9 to provide mandate relief to the assessors and county directors of real property tax service agencies by reducing the continuing education requirement from 24 to 12 credits annually.

Written comments were received from the New York State Association of County Directors of Real Property Tax Services, individual County Directors of Real Property Tax Services, several county assessor associations, the NYS Assessors Association, Trustees of the Institute of Assessing Officers, individual assessors, and a retired assessor.

Comments received in support of the change mention that although they feel that training is important, they believe that the proposed 12 hours of continuing education is more than enough to stay up-to-date with assessment trends. The basic certification establishes a foundation and the 12 hours provides for a maintenance and expansion of that basic training. Other comments in support of the change mention that more training would only require more time out of the office, result in attending classes that don't have direct application, or repeating classes just to meet a credit requirement. Some mention that the courses offered are some distance from their office and travel time and cost are not in the Town budget. Others mention that with the call for mandate relief, it's inappropriate to fund a continuing education requirement that far exceeds that of other professions. It was noted that the proposed amendment does not limit the amount of education that an individual might pursue on his own.

Comments received in opposition to the change mention that the information that an assessor needs to know is wide ranging and ever changing. An assessor is required to be an expert on valuation of vacant land, residential, farms, commercial, industrial, and utility properties. They must deal with the complexity of the

Real Property Tax Law, manage public relations, and administer a multitude of exemptions fairly. Some feel that if the credit requirement is reduced, exemption training will detract from needed valuation training.

The Department notes that flexibility regarding continuing education has not changed. If current events or legislative changes prompt individuals to want more training, they have the ability to take additional training in one year and fewer hours in another. In fact, the ability to bank credits one year into the future provides the opportunity for individuals to take additional training up to 24 credits in a given year and still receive reimbursement. Staying current with changes does not always translate to training credits. Information can be, and is communicated in many different ways. Methods include e-mail, newsletters, use of the web, association meetings, and phone conferences. For example, the Department hosts detailed information regarding Real Property Tax exemptions and opinions of counsel on its website. More involved or complex issues could translate to a credit bearing course, conference, or seminar.

Some comments note that there is no college level course of study leading to a degree in assessing. As a result, many assessors have learned through on-the-job training along with the required basic training. Some comments mention that cutting the continuing educational requirements for assessors from 24 to 12 hours a year does not seem to be a wise decision at a time when taxpayers are requiring more of their time to explain assessments and how the assessment system works in NYS. Others mention that in 2013, at the end of the appointment cycle, assessors are expected to retire and there may be new assessors who will be looking for the information needed to do a competent job.

The Department's Rules require that appointed assessors and county directors must meet certain qualifications to be initially appointed to the job. Once they begin an initial term of office, assessors must complete their basic certification in three years and county directors in four years. Basic training includes, but is not limited to, topics in assessment administration, appraisal, valuation, and ethics. Since these minimum qualifications and basic certification provide a good foundation for assessors and directors, and ethics

requirements remain unchanged, this reduction in continuing education requirements should not have any negative impact on the taxpayer. The new requirement ensures that individuals remain current in their profession so that they can continue to serve the public effectively.

Some comments also mentioned the issue of State reimbursement. One person stated: "I realize the State can no longer afford to pay for 24 credits but that should not preclude the necessary training to perform in a professional capacity as assessor. Keep the required 24 credit hours and pay us for 12 or whatever many hours you can afford. I am sure the State can cut spending somewhere else to save this most important training." Others commented that if the state could not afford to reimburse, than the locality should have to pick up the cost of training, as they do now for town clerks, building inspectors and code enforcement officers.

Regarding the comments pertaining to reimbursement by the State, the Real Property Tax Law provides that actual and necessary expenses incurred in satisfying these requirements are reimbursed by the State to the extent funds are appropriated by the legislature. For fiscal year 2011/2012, appropriations were reduced by 50 percent from previous years. This level of funding does not cover the projected training costs. If fund appropriations are reduced and the training requirements remain unchanged, local governments and individual assessors will be forced to pay for their own training thereby creating an unfunded mandate on local governments and their employees. There is no assurance local governments would reimburse assessors for training costs not covered by the State. This reduction in the continuing education requirement provides mandate relief for localities and individuals.

Another comment questioned the sanction to county directors and assessors that do not meet the continuing education requirements. This comment is beyond the scope of the proposed rule change. However, a failure to obtain or maintain certification is addressed by Real Property Tax Law section 322 for assessors and section 1530 for county directors.

A comment from a county assessor's association suggests that the rules be expanded to allow the provision for the authorization of additional credits for those assessors or county directors that are required to meet fulfillment of certification.

The Department notes that certification is a term that applies to basic training which is based on completion of specific courses over a period of time rather than a credit basis. Since there are no changes to basic certification requirements, credits do not need to be expanded.

A comment was received asserting an inaccuracy in the Statement in Lieu of a Regulatory Flexibility Analysis for Small Businesses and Local Governments. In stating that the county directors included in the Real Property Tax Administration Committee (RPTAC) were unanimous in their support for reducing the requirement for continuing education credits, the statement noted that “[n]ot only were they speaking for their own membership, but also for the assessors within their Counties.” The comment notes that some assessors are opposed to the change and asks that the Department consider the assessors’ opinions.

The Department recognizes that the phrasing of the statement was inartful and was not intended to convey that all of the directors were speaking on behalf of assessors, but merely that some of the county directors were also relating the sentiments of some of the assessors within their counties. Indeed, the statement recognizes that there were differing opinions on the proposal and that the assessor members of RPTAC were not in favor of the change. This comment period certainly affords the assessors the opportunity to state their opinion. In fact, some assessor comments are in favor of the change and some are not. All of the comments are being considered.

It was also noted that in New York State, licensed and certified appraisers are required to complete 28 hours of continuing education in 2 years, which is 14 hours per year on average. The Appraisal Institute requires their designated members to complete 100 hours over 5 years, which equates to 20 hours per year. Both of these requirements exceed the 12 hours proposed for assessors, whose responsibilities include much

more than valuation or appraisal work. Based on the 14 hours and 20 hours respectively required annually for appraisers as outlined above, it was suggested that assessors be required to complete at least 18 hours of continuing education per year. Another similar comment suggests requiring 18 hours of training, but limiting reimbursement to 12 credits or reducing the reimbursement for conferences.

The Department found that from its inception in 1983, the continuing education credit hour requirement ranged from 9 to 12 credit hours per year. In 1990, the continuing education credit requirement was changed substantially to mandate 24 hours, yet there is no evidence in the record justifying the increase. With the changing fiscal climate and with no apparent justification for the present requirements, the Department conducted a benchmark comparison of requirements with other States. In comparison with 33 other States that responded to a 2009 survey conducted by the International Association of Assessing Officers, nearly half of the States require an average of 12 or fewer continuing education credits per year. In comparison with other professions, the requirement for 24 CE credits also appears excessive. For instance, attorneys and professional engineers must meet a requirement for 12 hours of continuing education credits yearly. In addition, pharmacists and podiatrists have a lesser requirement than 24 hours yearly.

Another comment suggests the State only allow a reduction in hours if statistical measures of equity such as the Coefficient of Dispersion (COD) and the Price-Related Differential (PRD) for the municipality are within suggested guidelines. Specifically, if they are outside the guidelines, that assessor should have to take 36 to 48 hours each year, in courses specifically designed to teach him or her how to do the job better and to get the COD and PRD back within the guidelines. It was suggested that the Department should consider linking a COD and PRD that are within limits with other programs that towns need so that a town couldn't qualify for money unless their COD and PRD are within the guidelines or they can clearly demonstrate that they are in the process of fixing the problems with a revaluation.

Real Property Tax Law Sections 1537 and 1573 provide incentives for achieving and maintaining an equitable assessment roll. The department assists localities in meeting the guidelines that include measures of uniformity such as a COD and PRD.

A comment from a City assessor notes that “We in Buffalo are faced with the additional problem of absolutely no funding for any education, either by the State of New York, or the City of Buffalo. Any training we receive is paid for out of pocket. We feel that reimbursement rules should be changed to include ALL assessors in New York State.” Changes to assessor training reimbursement for certain cities including Buffalo, would require a change to Real Property Tax Law section 334. Such legislative changes are beyond the scope of the proposed rule amendments.

Upon consideration of these comments, it has been determined that no changes to the proposed rule amendment are necessary.